

REMARKS

In the Office Action dated June 2, 2005, claims 1-4, 6-12 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kubatzki et al, Simionescu et al and Brookner et al.

The Examiner stated Kubatzki et al and Brookner et al disclose the claimed invention except for a serially-operating modem that selectively serially conducts downloading of data directly from an external source via the modem. The Examiner relied on the Simionescu et al reference as disclosing serial communications, modem capability, and downloading data to bypass a bottleneck feature. The Examiner stated it would have been obvious to a person of ordinary skill in the art to modify the system disclosed in Kubatzki et al and Brookner et al based on the teachings of Simionescu et al. The Examiner stated a motivation to combine these references is to effectively work around a known bottleneck in the computer data download process.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kubatzki et al, Simionescu et al and Brookner et al, further in view of Rothstein. Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable Kubatzki et al, Simionescu et al and Brookner et al, further in view of Ezzet et al.

These rejections are respectfully traversed for the following reasons.

First, Applicant does not agree that a combination of the Kubatzki et al and Brookner et al teachings represents the "claimed invention" except for the serially-operating modem. Claim 1 explicitly requires a switchover module that allows downloading of rate table data directly from an external source to the postage calculator exclusively via the modem and the switchover module. For this purpose,

there must somewhere be a connection (port) to the external source, from which the rate table data originate. This is shown in Figure 2 of the present application as the telephone port of the modem 23, which is explicitly shown as providing a connection to and from a data center. The data center is shown as being remote from the postage meter in Figure 1, and being in communication with the postage meter via the modem 23. This port also is shown in Figure 3. For consistency, the already-shown element in Figure 4 has been labeled with the legend "PORT" and such an element and an associated legend have been added in Figures 5a and 5b as well.

The external interface unit 11 (EIU) disclosed in the Brookner et al reference has no such capability of communicating with an external data source, and therefore, has no capability of participating in any serially conducted data download from such an external source to another device, such as the scale D10. In fact, not even the postage meter 1 disclosed in the Brookner et al reference is indicated as having any type of external communication capability, thereby indicating that downloading data from an external source has nothing whatsoever to do with the components disclosed in the Brookner et al reference. The EIU 11 in the Brookner et al reference is provided solely for allowing additional functions to be achieved as "add-on" features, between the postage meter 1 and peripheral devices such as the scale D10, the modem D20, the external printer D31 and another scale D32. In all instances, the only function performed by the EIU is to control routing of data between the postage meter 1 and one or more of these peripheral devices. In every instance, the EIU routes data from the postage meter 1, and therefore the EIU operates in combination with the postage meter 1 and does not produce a bypass of

the postage meter 1 for any purpose, much less for the (non-disclosed) purpose of downloading data from an external source.

The fact that the meter in Kubatzki et al can receive downloaded data from an external source is irrelevant, because even if the Kubatzki et al meter were used with the Brookner et al EIU, such downloaded data still would pass through the meter, with no bypass.

For this reason alone, even if the Kubatzki et al/Brookner et al combination were further modified in accordance with the teachings of Simionescu et al, the subject matter of claim 1 still would not result.

As argued in Applicants' previous response, however, the Simionescu reference, although a serially-operating device, does not provide any discussion of a "bottleneck" problem between an external data source and a postage calculator, that would alleviate the participation of a postage meter in a data downloading procedure between the external source and the postage calculator. Applicant does not agree that the purpose of the serially-operating device in the Simionescu reference is for the purpose of alleviating any type of bottleneck, but instead, as explicitly discussed in the Simionescu et al reference, is for the purpose of allowing testing to be undertaken, via an emulator processor, without significantly affecting the normal operation of the microprocessor itself. For this purpose, software and hardware in the main microprocessor are bypassed, however, this is explicitly stated to be accomplished in Simionescu et al by using bypass *software* that is downloaded into a memory 1202 prior to testing (column 19, lines 25-29). Therefore, even if this situation can be considered as "bypassing a bottleneck" (which Applicant doubts), the bypassing is undertaken by software, rather than by physically switching a

switchover module, as disclosed and claimed in the present application. Moreover, the alleged “bypassing” that takes place in the Simionescu et al reference has nothing whatsoever to do with downloading data from an external source. As can clearly be seen in Figure 12 of the Simionescu et al reference, the emulator processor is connected between the main processor and the I/O port, and therefore it is physically incapable, by software or otherwise, of alleviating a “bottleneck” problem relating to downloading of data from an external source to a postage calculator.

Therefore, even a combination of these references would not physically represent a system as disclosed and claimed in the present application. Moreover, the Examiner stated a “motivation to combine these references is to effectively work around a known bottleneck in the computer data download process.” For the reasons set forth above, there is no substantiation whatsoever in any of the references for this statement. To the extent that the software solution disclosed in Simionescu et al can even be said to be for the purpose of “working around a known bottleneck,” clearly the alleged “bottleneck” in the Simionescu reference has nothing whatsoever to do with a data download process, because there is no connection whatsoever from the device disclosed in Simionescu to an external data source from which data could even be downloaded. The only location where a “bottleneck” is identified is the disclosure of the present application.

In the section entitled “Response To Arguments” at page 2 of the Office Action, the Examiner stated that the arguments in support of patentability presented in Applicant’s previous response did not match the claim language. The Examiner acknowledged that the “exclusively” limitation, discussed in those arguments, is

present in the claims, but the Examiner stated the "serial" nature of the arguments is not well developed in the claim language. The Examiner stated the Applicant argued "that the postage meter and the scale are serially connected and that the switch disconnects the meter and connects the scale while the prior art did it in parallel." This is not a correct statement of Applicant's previous arguments.

The only reason why claim 1 was previously amended to describe the modem as being "serially-operating" was because it was the Examiner, not the Applicant, that contended that the functions described in claim 1 could be performed by a parallel device, as disclosed in the Aas reference previously relied upon by the Examiner. Applicant did not argue that connection functions previously performed in a parallel manner were now, in accordance with the invention, being performed in a serial manner. Applicant argued that the particular connection functions set forth in claim 1 had *never* been disclosed *anywhere* in the prior art and that, moreover, the Aas reference previously relied upon by the Examiner was incapable of performing those functions, by virtue of it being a parallel device. At the time claim 1 was amended to describe the modem as being "serially-operating," Applicants also made the argument, which apparently now has been accepted by the Examiner, that merely using the word "modem" by itself should have been sufficient to preclude reliance on a reference operating exclusively in a parallel manner, such as the Aas reference. At the time claim 1 was amended to add the "serially-operating" language, Applicant argued that this was an unnecessary and redundant amendment, but Applicant had no objection to making it if it would advance prosecution by precluding continued reliance on the Aas reference.

Since, as acknowledged by the Examiner, a modem is inherently a serially-operating device, this means that the switchover module, which is explicitly stated to be connected between the postage meter, the scale and the modem, must produce a serial connection to the modem, otherwise it would not be compatible with such an inherently serially-operating device. Claim 1 has been explicitly amended to state that such a serial connection is produced between the external source and the postage calculator, and this connection is for the purpose of serially conducting data downloading of rate table data directly from the external source to the postage calculator exclusively via the modem and the switchover module.

Claim 1 also has been amended to make clear that the external source, from which the modem receives the rate table data, is not the postage meter. Applicant believes this was already also inherently clear in the original language of claim 1, since the postage meter and the external device were claimed as separate items, and therefore Applicant has no objection to making this explicitly clear.

As noted above, none of the references cited by the Examiner discloses a device that could be considered comparable to the claimed switchover device, that has a connection to an external source of rate table data, that would allow the rate table data from that external source to be routed through the switchover module to a postage calculator.

None of claims 1-4, 6-12 or 14, would have been obvious to a person of ordinary skill in the field of postage meter communications under the provisions of 35 U.S.C. §103(a), based on the teachings of Kubatzki et al, Simionescu et al and Brookner et al.

With regard to claims 5 and 13, Applicant does not believe it is necessary to address the specific teachings of the individual Rothstein and Ezzet et al references because, for the reasons discussed above, the Kubatzki et al/ Simionescu et al/Brookner et al combination does not disclose or suggest the subject matter of independent claim 1, from which claims 5 and 13 depend. Therefore, even if that original combination were modified in accordance with the teachings of either Rothstein or Ezzet et al, the subject matter of claims 5 and 13 still would not result.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,



(Reg. 28,982)

SCHIFF, HARDIN LLP
CUSTOMER NO. 26574
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Applicants.

CH1\ 4324532.1

IN THE DRAWINGS:

Each of Figures 4, 5a and 5b has been amended as shown on the replacement sheet attached hereto.